

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

ALI M. DUALEH, JAWAHER SHREH,
individually and on behalf of their minor
children S.M. (age 11), A.M. (age 8), A.M. (age
7), A.M. (age 5), A.M. (age 4), and S.M. (8
months); and MOHAMMED MIRREH,

Plaintiffs,

v.

UNITED STATES OF AMERICA, ROBERT
BROOKS, BAN TIEN, THOMAS PHILLIPS,
LANCE GRAY, KEVIN KEYES, KEITH
KING, P. KORDEL, DAVE LIEBMAN, JEFF
MCCLANE, and BRET SHAVERS

Defendants.

No.

COMPLAINT FOR DAMAGES

COME NOW Plaintiffs, Ali M. Dualeh and Jawaher Shreh, individually and on behalf of
their minor children S.M. (age 11), A.M. (age 8), A.M. (age 7), A.M. (age 5), A.M. (age 4), and
S.M. (8 months),¹ and Mohammed Mirreh, and allege as follows:

NATURE OF THE ACTION

This is an action to recover damages and to obtain declaratory and injunctive relief under
Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971); 42
U.S.C. § 1983; the Federal Tort Claims Act ("FTCA"), 28 U.S.C. § 2671 *et seq.*; and state law.

¹ Ages of the minor children Plaintiffs set forth in this Complaint are their ages on July 26, 2006.

1 The claims arise from the acts of a joint federal-local police task force during the execution of a
2 federal search warrant at the Plaintiffs' residence in Kent, Washington on July 26, 2006.

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4 **I. PARTIES**

5 1.1.Plaintiffs.

6 1.1.1. Ali Mirreh Dualeh is a legal permanent resident in the United States born
7 in Somalia. At all times material to this case, he was a resident of Kent, King County,
8 Washington.

9 1.1.2. Jawaher Shreh is a citizen of the United States born in Somalia. At all
10 times material to this case, she was a resident of Kent, King County, Washington.

11 1.1.3. Mohammed Mirreh is a citizen of the United States, born in Somalia, and
12 is the son of Mr. Dualeh and Ms. Shreh. At all times material to this case, he was a resident of
13 Kent, King County, Washington. At the time of the July 26, 2006 raid, he was 17 years old

14 1.1.4. S.M. (age 11) is the minor daughter of Mr. Dualeh and Ms. Shreh. She is
15 a citizen of the United States born in Syria. At all times material to this case, she was a resident
16 of Kent, King County, Washington.

17 1.1.5. A.M. (age 8) is the minor son of Mr. Dualeh and Ms. Shreh. He is a
18 citizen of the United States born in Syria. At all times material to this case, he was a resident of
19 Kent, King County, Washington.

20 1.1.6. A.M. (age 7) is the minor son of Mr. Dualeh and Ms. Shreh. He is a
21 natural born citizen of the United States. At all times material to this case, he was a resident of
22 Kent, King County, Washington.

1 1.1.7. A.M. (age 5) is the minor son of Mr. Dualeh and Ms. Shreh. He is a
2 natural born citizen of the United States. At all times material to this case, he was a resident of
3 Kent, King County, Washington.

4 1.1.8. A.M. (age 4) is the minor son of Mr. Dualeh and Ms. Shreh. He is a
5 natural born citizen of the United States. At all times material to this case, he was a resident of
6 Kent, King County, Washington.

7 1.1.9. S.M. (age 8 months) is the minor son of Mr. Dualeh and Ms. Shreh. He is
8 a natural born citizen of the United States. At all times material to this case, he was a resident of
9 Kent, King County, Washington.

10 1.2 Defendants.

11 1.2.1. Defendant United States of America operates the Drug Enforcement
12 Administration ("DEA") within the United States Department of Justice. The DEA is the federal
13 law enforcement agency that arranged, controlled and supervised the execution of a federal
14 narcotics search warrant at Plaintiffs' apartment at 12800 SE 272nd Place, in Kent, Washington
15 (hereinafter "the entry and search"). The DEA enlisted officers from the Renton Police
16 Department ("RPD") and Valley Narcotics Enforcement Team ("VNET") to gain entry to
17 Plaintiffs' residence and conduct aspects of the search.

18 1.2.2. Defendant Robert Brooks is a Special Agent ("SA") at the DEA.
19 Defendant Brooks planned the raid of Plaintiffs' residence, filed an Application and Affidavit of
20 Search Warrant that led to the entry and search.

21 1.2.3. Defendant Ban Tien is a Special Agent ("SA") at the DEA. Defendant
22 Tien planned, supervised, and/or participated in the entry and search of Plaintiffs' residence.
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1 1.2.4. Defendant Thomas Phillips is a Special Agent ("SA") at the DEA.
2 Defendant Phillips planned, supervised, and/or participated in the entry and search of Plaintiffs'
3 residence.

4 1.2.5. Defendant Detective Sergeant Dave Liebman is a detective at the Renton
5 Police Department ("RPD"). Defendant Liebman planned, supervised, and participated in the
6 forcible entry aspect of the the entry and search of Plaintiffs' residence.
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8 1.2.6. Defendant Lance Gray is a detective at the RPD and member of the Valley
9 Narcotics Enforcement Team ("VNET"). Defendant Gray participated in the entry and search of
10 Plaintiffs' residence.

11 1.2.7. Defendant Kevin Keyes is a detective at the RPD who participated in the
12 entry and search of Plaintiffs' residence.
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14 1.2.8. Defendant Keith King is a detective at the Tukwila Police Department
15 ("TPD") and a member of VNET. Detective King participated in the entry and search of
16 Plaintiffs' residence.

17 1.2.9. Defendant P. Kordel is a canine officer with the RPD who participated in
18 the entry and search of Plaintiffs' residence.

19 1.2.10. Defendant Jeff McClane is a detective at the Auburn Police Department
20 ("APD") and a member of VNET. Defendant McClane participated in the entry and search of
21 Plaintiffs' residence.
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23 1.2.11. Defendant Bret Shavers is a detective at RPD who participated in the entry
24 and search of Plaintiffs' residence.

25 1.2.12. The VNET detectives and the RPD detectives/officers named in the
26 preceding paragraphs will be referred to respectively as "VNET Defendants" and "RPD
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1 Defendants" hereinafter, without specifying by name each detective's role in the events. The
2 DEA reports obtained by Plaintiffs prior to filing do not specify the roles played by each
3 detective. Without discovery, Plaintiffs currently have insufficient information to determine the
4 specific acts and omissions of each participant VNET and RPD detective. However, available
5 documents indicate, and Plaintiffs allege, that each of the Defendants either participated directly
6 in the actions complained of here or were present and acceded in those actions by other
7 defendant officers.

9 1.2.13. At least some of the individual Defendants are residents of the Western
10 District of Washington.

11 II. JURISDICTION AND VENUE

12 2.1. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 1331,
13 1367, and 1402.

14 2.2. With respect to Plaintiffs' claims under the FTCA, Plaintiffs' filed tort
15 claims with the DEA on July 23, 2008. On May 21, 2009, the DEA denied the administrative
16 claim. Plaintiffs' administrative remedies are thereby exhausted. Having exhausted
17 administrative remedies, the jurisdiction of this Court is invoked in regard to the FTCA cause of
18 action under 28 U.S.C. § 1346 where the United States is now the proper party.

19 2.3. Venue is appropriate in the Western District of Washington because all or
20 a substantial part of the events complained of occurred in this District, Plaintiffs reside in this
21 District, and some of the Defendants reside in this District. *See* 28 U.S.C. §§ 1391(b) and
22 1402(b).

III. FACTS

3.1. Events Surrounding July 26, 2006 Forced Entry and Search Warrant Execution.

3.1.1. Plaintiff Ali Mirreh Dualeh is a refugee in Somalia and is now a legal permanent resident of the United States. Plaintiff Jawaher Shreh is Mr. Dualeh's wife. Mohammed Mirreh, S.M. (age 11), A.M. (age 8), A.M. (age 7), A.M. (age 5), A.M. (age 4), and S.M. (8 months) are the minor children of Ali Dualeh and Jawaher Shreh ("the minor Plaintiffs"). All Plaintiffs are devout and practicing Muslims and have been all their lives.

3.1.2. On July 26, 2006, Plaintiff Mohammed Mirreh was 17 years old.

3.1.3. Plaintiffs were at all material times residents of Kent, King County, Washington and rented under a lease agreement, in the name of Mr. Dualeh, an apartment located at 12800 Southeast 272nd Place, Apartment 4 in Kent, Washington ("the Residence"). The utilities for the residence were registered to Ms. Shreh.

3.1.4. On July 20, 2006, a federal grand jury indicted eighteen persons of Somali origin in New York and Seattle for conspiracy to import and distribute *khat* in the wake of a DEA investigation dubbed "Operation Somalia Express." *Khat* is the common name for *Catha Edulis*, a leafy herb widely used in the Horn of Africa and lower Arabian Peninsula and consumed legally in several European countries. *Khat*, though not illegal in itself, is chewed and contains small amounts of cathinone and cathine, mild stimulants classified respectively under U.S. law as Schedule I and Schedule IV controlled substances. Within 48-72 hours of harvesting *khat*, any cathinone contained in the *khat* breaks down into cathine. Without testing each specimen after harvest, it is not possible to ascertain the extent, if any, to which cathinone or cathine remains in *khat*.

1 3.1.4. On July 24, 2006 DEA Special Agent Robert Brooks submitted an
2 Application and Affidavit for Search Warrant to Magistrate Judge Mary Alice Theiler in the
3 Western District of Washington. Mr. Dualeh was named in the federal indictment, but his wife,
4 Ms. Shreh, and their children were not. The search warrant was to apply to seventeen addresses
5 throughout King County, including Plaintiffs' residence. The affidavit stated there was probable
6 cause to seize *khat* and other unidentified "controlled substances"; drug paraphernalia; drug
7 transaction records; customer, coconspirator and supplier information; cash and financial
8 records; photographs; property records; and "firearms to guard drugs and cash at the location."
9 The basis for the search of Plaintiffs' residence was that Mr. Dualeh allegedly had phone
10 conversations about buying *khat*. The warrant indicated no particular information that Mr.
11 Dualeh, Ms. Shreh, any of Mr. Dualeh's minor children, or any other person at the residence
12 could be considered armed or dangerous. The affidavit also did not seek a warrant with a "no-
13 knock entry," and Magistrate Judge Theiler did not authorize a "no-knock entry" in the warrant
14 issued on July 24, 2006.
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16 3.1.5. On July 26, 2006, in the early morning, SA Ban Tien and SA Thomas
17 Phillips met with the VNET and RPD detectives to conduct operational briefings before
18 establishing surveillance at Plaintiffs' residence. According to the DEA Report of Investigation
19 ("the DEA Report"), SA Ban Tien did not note any activity or unusual circumstances at the
20 residence.
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22 3.1.6. On July 26, 2006, Plaintiff Shreh, who was lying awake after having
23 finished her morning prayers and having fed her baby, heard a loud banging noise and sat up to
24 call the police. Plaintiff Ali Dualeh also heard a loud banging noise and exited the bedroom to
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1 see what was happening. None of the Plaintiffs heard any announcement of the officers' purpose
2 for being outside the residence. They also did not refuse entry to any officers.

3 3.1.7. Without waiting a reasonable time after knocking, Defendants SA Ban
4 Tien, SA Thomas Phillips, RPD Defendants and VNET Defendants, all dressed in black
5 paramilitary gear and with guns drawn, broke into the first floor.
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7 3.1.8. SA Ban Tien, SA Thomas Phillips, RPD Defendants and VNET
8 Defendants tackled Ms. Shreh and Mr. Dualeh on the second floor of the apartment, in the area
9 between the bedroom and the stairs. These Defendants hit Mr. Dualeh in the mouth and in the
10 low back. Neither Mr. Dualeh nor Ms. Shreh resisted the intruding officers.

11 3.1.9. Plaintiff Mohammed Mirreh was sleeping in his bedroom, and his brother,
12 A.M. (age 5), was sleeping on the bed nearby. Mohammed Mirreh awoke to noise and saw a gun
13 pointed at his head. The RPD and VNET Defendants forcefully pulled Mohammed Mirreh up
14 into a standing position, and then forced him to the floor and handcuffed him.
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16 3.1.10. The RPD and VNET Defendants corralled Ms. Shreh and her children into
17 a single bedroom and stood at the door with guns drawn. The RPD and VNET Defendants
18 pointed guns at the children. The children saw the RPD and VNET Defendants point guns at
19 their mother, father, and brother (Mohammed). The children were wearing very little clothing,
20 and S.M. (age 11), a Muslim girl, did not have a headscarf on. Ms. Shreh, also a Muslim
21 woman, was not properly dressed to be in the presence of strange men and did not have a
22 headscarf on. S.M. (age 11) repeatedly requested to put on a headscarf and proper clothing,
23 explaining that under her Muslim religion it was shameful to be exposed to unrelated men or
24 photographed without a headscarf and while indecently clothed. Despite these explanations, SA
25 Phillips and other RPD and VNET Defendants refused her request to retrieve proper clothing as
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1 was required by her religious beliefs and made her stand in the plain view of the officers.
2 Despite Ms. Shreh's protests that SA Phillips was invading her privacy and violating her
3 religious beliefs, SA Phillips photographed and videotaped Ms. Shreh without clothing required
4 by her religious beliefs. SA Phillips and/or the RPD and VNET Defendants also photographed
5 Mr. Dualeh and the children, including S.M. (age 11), without clothing plaintiffs considered
6 proper and consistent with their religious beliefs. During this detention, the children were not
7 permitted to use the bathroom. The children were visibly frightened and were crying.
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9 3.1.12. While she was being detained in this way, Ms. Shreh knew that her baby
10 was still in a different room without any supervision. Ms. Shreh repeatedly asked the officers to
11 retrieve her baby from the other room, but the officers refused her request. After approximately
12 30 minutes, the officers allowed S.M. (age 11) to retrieve the baby from the other room. S.M.
13 (age 11) found the baby, S.M. (age 8 months), on the floor. The officers did not allow Ms. Shreh
14 to feed her baby and she was unable to do so until after they left the residence.
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16 3.1.13. Ms. Shreh also requested permission from the officers to retrieve
17 appropriate clothing. Plaintiff Shreh tried to explain that her Muslim religion and Somali custom
18 require that she wear a headscarf at all times in the presence of men to whom she is not related.
19 Despite these explanations, and those by her daughter (S.M. age 11), SA Phillips and other RPD
20 and VNET Defendants refused to allow Ms. Shreh and S.M. (age 11) to cover their heads and
21 bodies as was required by their religious beliefs and made them stand in the plain view of
22 officers.
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24 3.1.14. While processing the arrest scene, SAs Tien and Phillips observed and/or
25 participated as RPD Detective Sgt. Leibman and other RPD and VNET Detectives seized
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1 Plaintiffs' property under the supervision and direction of SAs Tien and Phillips. SAs Tien and
2 Phillips seized \$960.00 in cash, documents, and cellular phones.

3 3.1.16. After the scene was secured, an officer took Mr. Dualeh to the Tukwila
4 City Jail. At the Tukwila City Jail, the officer transferred custody of Mr. Dualeh to a Tukwila
5 officer to drive to the DEA office. This Doe officer grabbed Mr. Dualeh, while he was still
6 handcuffed, held him by the nape of his neck, threw him into the back of a truck, and kicked the
7 truck door closed. Officer Doe drove fast to the DEA office so that Mr. Dualeh fell on the floor
8 during the journey.

9 3.1.17. Defendants Tien and Phillips, and the RPD and VNET Defendants
10 remained at Plaintiffs' residence for several hours. Until the time SA Tien, SA Phillips, and the
11 RPD and VNET officers left, Plaintiff Shreh had been handcuffed, visible to male police officers
12 and others, without appropriate clothing or head cover. The minor Plaintiffs had likewise been
13 handcuffed and detained without proper clothing or head cover for the duration of the search
14 lasting several hours. By this time, Defendants were on notice that Ms. Shreh and S.M. (age 11)
15 perceived themselves to be improperly clothed because their religious beliefs required that they
16 be dressed in opaque clothing and that they wear a head scarf. These Defendants nonetheless
17 refused to retrieve appropriate clothing and a head scarf for Ms. Shreh and S.M. (age 11) as was
18 required by their religious beliefs and made them stand in the plain view of the officers who
19 were unrelated men.

20 3.1.18. Defendants left Plaintiffs' residence in complete disarray; the doorjamb
21 and door were damaged from the force used to open the door; and the furniture was flipped over.

22 3.1.19. Within 24 hours of the raid, Plaintiff Shreh found a 48 Hour Vacate Notice
23 from King County Housing Authority on her front door.

1 3.1.20. Defendants did not find any *khat*, weapons, contraband, or other
2 instrumentalities of crime in Plaintiffs' home.

3 3.1.21. Plaintiffs were severely traumatized by the forced entry into their home,
4 the aggressive manner of restraint, and the prolonged detention. The Plaintiffs lost liberty,
5 suffered trespass to and damage to their property, and suffered physical pain from the force used
6 to restrain them. Mohammed Mirreh suffered trauma and pain when the officers pointed guns at
7 his head. Plaintiffs Dualeh and Shreh experienced the emotional distress of witnessing their
8 children restrained at gunpoint. The minor Plaintiffs suffered pain and outrage when they
9 witnessed SA Tien, SA Phillips, and the RPD and VNET Defendants point guns at their parents
10 and brother. Plaintiff Shreh and the minor Plaintiffs suffered shame and outrage when, despite
11 many protestations, the officers photographed them and knowingly forced to stand in a state of
12 dress Plaintiffs considered indecent and violative of their devout religious beliefs.
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15 IV. CLAIMS FOR RELIEF

16 COUNT ONE

17 *(Bivens Actions Against DEA Defendants)*

18 4.1 As described above, the acts and omissions of Defendants SAs Robert Brooks,
19 Ban Tien and SA Thomas Phillips of the DEA, in their capacities as actors, supervisors and
20 planners of the raid, caused Plaintiffs to be deprived of rights guaranteed by the Fourth
21 Amendment to the United States Constitution, the rights to be free from unreasonable searches
22 and seizures of their home, person and effects.
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24 4.2. As described above, the acts and omissions of Defendants SA Ban Tien and SA
25 Phillips of the DEA, in their capacities as actors in and supervisors of the raid, caused Plaintiffs
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1 Shreh and S.M. (age 11) to be deprived of the right to free exercise of religion and religious
 2 equality guaranteed by the First and Fifth Amendments to the Constitution of the United States.

3 4 **COUNT TWO**

(Section 1983 Actions Against Municipal Police Officers)

5 4.3 As described above, the acts and omissions of the Defendants Detective Sergeant
 6 Dave Liebman, Det. Lance Gray Det. Kevin Keyes, Det. Keith King, Officer P. Kordel, Det. Jeff
 7 McClane, and Det. Bret Shavers, in their capacities as actors, supervisors and/or planners of the
 8 raid, caused Plaintiffs to be deprived of rights guaranteed by the Fourth Amendment to the
 9 United States Constitution, the rights to be free from unreasonable searches and seizures of their
 10 home, person and effects.

12 4.4 As described above, the acts and omissions of the Defendants Detective Sergeant
 13 Dave Liebman, Det. Lance Gray Det. Kevin Keyes, Det. Keith King, Officer P. Kordel, Det. Jeff
 14 McClane, and/or Det. Bret Shavers, in their capacities as actors and/or supervisors, caused
 15 Plaintiffs Shreh and S.M. (age 11) to be deprived of the right to free exercise of religion and
 16 religious equality guaranteed by the First and Fourteenth Amendments to the Constitution of the
 17 United States.

19 **COUNT THREE**

(FTCA Claim Against the United States)

21 4.7 By virtue of the acts and omissions set forth above, the United States is liable for
 22 the negligent supervision of the municipal officers with respect to execution of the search
 23 warrant on July 26, 2006 at Plaintiffs' residence.

24 **V. RELIEF REQUESTED**

25 WHEREFORE, Plaintiffs request relief as follows:

26 5.1 Compensatory damages;
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1 5.2 Punitive damages from any Defendant to the extent permitted by law;

2 5.3 Costs, including reasonable attorneys' fees under 42 U.S.C. § 1988 and to the
3 extent otherwise permitted by law;

4 5.3 Such other relief as may be just.

5 DATED this 24th day of June, 2009.

6 MacDONALD HOAGUE & BAYLESS

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9 By: 

10 Timothy K. Ford, WSBA # 5986
11 David Whedbee, WSBA #35977
12 Attorneys for Plaintiffs
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